

H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

Gives the Act a short title of “Healthy Forests Restoration Act of 2003.” Lists table of contents.

SEC. 2. PURPOSE.

Lists the purposes of this Act, including: to reduce the risks of damage to communities, municipal water supplies and federal lands from catastrophic wildfire; to authorize grant programs to improve the commercial value of forest biomass; to enhance efforts to protect watersheds and address threats to forest and rangeland health; to promote systematic information gathering to address the impacts of insect infestation on forest and rangeland health; to improve the capacity to detect insect and disease infestations at an early stage; and to benefit threatened and endangered species, improve biological diversity and enhance carbon sequestration.

TITLE I – FOREST HEALTH ON NATIONAL FORESTS AND PUBLIC LANDS

SEC. 101. DEFINITIONS

Defines the terms: authorized hazardous fuels reduction project, condition class 2, condition class 3, day, decision document, federal lands, hazardous fuels reduction project, implementation plan, interface community and intermix community, municipal water supply system, Secretary concerned, threatened and endangered species habitat.

SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

Allows for authorized hazardous fuels reduction projects on federal lands that: (1) are located in an interface or intermix community, (2) are located in proximity to such communities, (3) are condition class 3 or 2 and located in proximity to a municipal water supply, (4) are condition class 3 or 2 and have been identified as an area where windthrow, blowdown, the existence or threat of disease or insect infestation poses a threat to forest or rangeland health, or (5) contain threatened and endangered species.

Requires projects to be planned and conducted in a manner consistent with land and resource management plans or an applicable land use plan.

Limits the acreage available for authorized hazardous fuels reduction projects to 20,000,000 acres.

Gives the Secretary concerned sole discretion to plan and conduct an authorized

project within certain parameters, including tree diameter size, tree density and species composition.

Prohibits the Secretary concerned from conducting an authorized hazardous fuels reduction project on the following federal lands: a component of the National Wilderness Preservation System, federal lands where the removal of vegetation is prohibited or restricted by a Congress or a presidential proclamation, or wilderness study areas.

Prohibits the construction of any new permanent roads in any inventoried roadless area.

SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATERSHEDS.

Gives priority to authorized hazardous fuel reduction projects which provide for protection of communities and watersheds.

SEC. 104. ENVIRONMENTAL ANALYSIS.

Gives the Forest Service and Bureau of Land Management discretionary authority to limit the analysis ordinarily required under the National Environmental Policy Act ("NEPA") to the proposed agency action, meaning the agencies would not be required to analyze and describe a number of different alternatives to the preferred course.

Codifies the public participation requirements set out in the Western Governors Association 10-year wildfire management strategy for use in conducting hazardous fuels reduction projects.

Directs the Secretary concerned to sign a decision document for each authorized hazardous fuels reduction project and provide notice of that document.

Requires the Secretary concerned to monitor the implementation of authorized hazardous fuels reduction project.

SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE REVIEW PROCESS.

Directs the Secretary of Agriculture to establish an administrative review process for the Forest Service within 90 days after the enactment of this Act that will serve as the sole means by which a person can seek administrative redress regarding an authorized hazardous fuels reduction project.

Limits the administrative process to be developed to persons who have submitted specific and substantive written comments during the preparation stage of the project.

Clarifies that the Appeals Reform Act, section 322 of P.L. 102-381, 16 U.S.C. 1612 note, does not apply to an authorized hazardous fuels reduction project.

SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL REVIEW OF AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

Establishes a time limit for filing a challenge to an authorized hazardous fuels reduction project to 15 days within notice of the final agency action.

Limits the duration of any preliminary injunction granted on an authorized project to 45 days subject to renewal.

Requires a court in which an action or an appeal is filed to render a final determination within 100 days of when the complaint or appeal is filed.

SEC. 107. STANDARD FOR INJUNCTIVE RELIEF FOR AGENCY ACTION TO RESTORE FIRE-ADAPTED FOREST OR RANGELAND ECOSYSTEMS.

Directs the court, in considering a request for injunctive relief, to consider the public interest in avoiding long-term harm to the ecosystem.

Directs the court to give deference to any agency finding that the balance of harm and the public interest in avoiding the short-term effects of the agency action is outweighed by the public interest in avoiding long-term harm to the ecosystem.

SEC. 108. RULES OF CONSTRUCTION.

Clarifies that nothing in this title shall be construed to affect or limit the use of other authorities by the Secretary concerned to plan or conduct a hazardous fuels reduction project on federal lands.

Clarifies that nothing in this title shall be construed to prejudice the consideration or disposition of any legal action concerning the Roadless Area Conservation Rule.

TITLE II – BIOMASS

SEC. 201. FINDINGS.

Lists Congressional findings as to the need for forest management activities to be conducted, including the removal of biomass.

SEC. 202. DEFINITIONS.

Defines the terms: biomass, Indian tribe, person, preferred community, Secretary

concerned.

SEC. 203. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.

Establishes a biomass commercial use grant program to extend assistance to any person who owns or operates a facility that uses biomass as a raw material to produce energy.

Establishes a value-added grant program to extend assistance to persons to offset the cost of projects to add value to biomass.

Authorizes \$25 million for each of the fiscal years 2004 through 2008.

SEC. 204. REPORTING REQUIREMENT.

Requires the Secretary of Agriculture, in consultation with the Secretary of Interior, to submit a report describing the results of the grant programs by October 1, 2010 to: House Agriculture Committee, Resources Committee, Senate Agriculture Committee, Senate Energy and Natural Resources Committee.

TITLE III – WATERSHED FORESTRY ASSISTANCE

SEC. 301. FINDINGS AND PURPOSE.

Lists Congressional findings relating to the need for protection of watershed health in forest management practices. Describes the purpose of this title.

SEC. 302. ESTABLISHMENT OF WATERSHED FORESTRY ASSISTANCE PROGRAM.

Authorizes the Secretary, acting through the Forest Service, to provide technical, financial and related assistance to private forest landowners through the State foresters and equivalent state officials. Focuses assistance to the purpose of expanding state forest stewardship capacities and activities through best management practices to improve watershed health.

Includes a technical assistance program to protect water quality and a watershed cost-share program. Directs the Secretary to make awards under the cost-share program to communities, non-profit groups and non-industrial private forest landowners for watershed forestry projects.

Authorizes \$15 million for each of the fiscal years 2004 through 2008. Directs the Secretary to devote at least 75 percent of the funds appropriated in a fiscal

year to the cost-share component.

TITLE IV-- ACCELERATED INFORMATION GATHERING TO ADDRESS INSECT INFESTATIONS

SEC. 401. DEFINITIONS, FINDINGS, AND PURPOSE.

Defines the terms: applied silvicultural assessment, federal lands, Secretary concerned, 1890 institutions.

Lists Congressional findings as to insect infestation, resulting damage and need for assessment and treatment.

States the purposes of this title.

SEC. 402. ACCELERATED INFORMATION GATHERING REGARDING BARK BEETLES, INCLUDING SOUTHERN PINE BEETLES, HEMLOCK WOOLY ADELGIDS, EMERALD ASH BORERS, RED OAK BORERS AND WHITE OAK BORERS.

Directs the Department of Agriculture, acting through the Forest Service and U.S. Geological Survey, to conduct an accelerated program to plan, conduct, and promote systematic information gathering on certain insect types that have caused large-scale damage to forest ecosystems.

Directs the Secretary to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to future infestations.

Directs the Secretary to disseminate the results of such information gathering, treatments and strategies.

Directs the Secretary to establish and carry out the program in cooperation with scientists from universities and forestry schools, state agencies and private and industrial landowners.

SEC. 403. APPLIED SILVICULTURAL ASSESSMENTS.

Enables the Secretary concerned to conduct applied silvicultural assessments on federal lands that the Secretary determines in its sole discretion are at risk for infestation with certain named pests. Limits such assessment areas to 1,000 acres per assessment. Applies an overall acreage limitation to 250,000 acres.

Requires the Secretary to provide notice of each applied silvicultural assessment proposed to be carried out. Requires the Secretary to provide an opportunity for public input.

Creates a categorical exclusion from further analysis under NEPA which eliminates the Secretary's responsibility to make any findings as to whether the project has a significant effect on the environment.

SEC. 404. RELATION TO OTHER LAWS.

Clarifies that the authorities provided to the Secretary concerned in this title are supplemental to authorities provided in any other law.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Authorizes the appropriation of such sums as may be necessary to carry out this title in fiscal years 2004 through 2008.

TITLE V- HEALTHY FORESTS RESERVE PROGRAM

SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.

Establishes a Healthy Forests Reserve Program within the Forest Service to restore degraded forest lands and to promote the recovery of endangered species.

Directs the Secretary of Agriculture to carry out the program in cooperation with the Secretary of the Interior, acting through the United States Fish and Wildlife Service ("FWS").

SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

Directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to designate rare forest ecosystems to be eligible for the reserve program. Limits enrollment to 1 million acres.

Allows lands to be enrolled pursuant to a 10-year cost-share agreement, a 30-year easement or a permanent easement with a buyback option. Leaves the enrollment method up to the owner.

SEC. 503. CONSERVATION PLANS.

Requires participating landowners to develop a conservation plan with the FWS describing the land use activities to be permitted on enrolled lands.

SEC. 504. FINANCIAL ASSISTANCE.

Sets forth the payment structure for 10-year, 30-year and permanent enrollment options as well as the procedure to exercise a buyback option in the case of a

permanent easement.

SEC. 505. TECHNICAL ASSISTANCE.

Directs the Forest Service and FWS to provide landowners with the technical assistance necessary to comply with the terms of agreements and easements created in this program.

SEC. 506. SAFE HARBOR.

Directs the Secretary of Interior to provide a safe harbor under section 7 of the Endangered Species Act to participating landowners when such enrollment will result in a net conservation benefit for listed species.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

Authorizes \$15 million for each of the fiscal years 2004 through 2008.

TITLE VI- MISCELLANEOUS PROVISIONS

SEC. 601. FOREST STANDS INVENTORY AND MONITORING PROGRAM TO IMPROVE DETECTION OF AND RESPONSE TO ENVIRONMENTAL THREATS.

Requires the Secretary of Agriculture to carry out a comprehensive program to inventory, monitor, characterize, assess and identify forest stands in units of the National Forest System and on private lands with the consent of the landowner.

Directs the Secretary, in carrying out this monitoring program, to develop a comprehensive early warning system which will enable forest managers to treat the land before a threat to forest health gets out of control.

Authorizes \$5 million for each of the fiscal years in 2004 through 2008.